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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAR 14 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
2000 Biennial Review –	)	CC Docket No. 00-199
Comprehensive Review of the Accounting	)	
Requirements and ARMIS Reporting	)	
Requirements for Incumbent Local	)	
Exchange Carriers: Phase 2 and Phase 3	)	

REPLY COMMENTS OF AT&T CORP. ON PHASE 3

Pursuant to Section 1.415 of the Commission's Rules, AT&T Corp. ("AT&T") submits these reply comments on the Phase 3 issues raised in the Commission's Notice of Proposed Rulemaking ("NPRM"), FCC 00-364, on accounting requirements and ARMIS reporting requirements for incumbent local exchange carriers ("LECs"), released October 18, 2000, in the above captioned docket.

The commenters generally agree that this inquiry is extremely premature. The Commission sought comment on "what roadmap we should follow for accounting and reporting deregulation" (NPRM ¶ 89), but as the commenters note, the accounting and reporting rules are still critically important for many regulatory functions and will remain so for the foreseeable future. Therefore, "the Commission need not, and should not, establish a specific framework or timetable for the elimination or significant modification of its accounting rules." WorldCom at 1.

The comments confirm that both the Commission and the state commissions use the Commission's accounting and reporting data for many important regulatory purposes. *See, e.g.*, Wisconsin at 3 ("until there is effective competition, however, the FCC and the states

cannot carry out their respective statutory mandates without uniform and accurate accounting reporting information"). Such information is necessary for "tariffed prices, to provide information concerning the financial condition of ILECs," cost allocation rules, universal service, jurisdictional separations, "to assess the state of the telecommunications network," and "to address cost issues in various proceedings such as long-term number portability, interconnection, pole attachments, and collocation." *Id.* at 3-4; NARUC Comments at 3 (February 22, 2001); GSA at 4-5; WorldCom at 3-4. Moreover, "the Commission has noted that Part 32 accounting data has often been used on a comparative basis in state [unbundled network element] pricing proceedings." WorldCom at 3. Furthermore, the "Commission has determined that its Part 32 and 64 rules are necessary to the implementation of Section 272." *Id.* And "the Part 32 USOA restrains an incumbent LEC's ability to charge monopoly prices because it provides ratepayers with information that can be used to pursue a complaint against unjust and unreasonable rates." *Id.* at 2; *see also* GSA at 4-5.

None of these regulatory programs – unbundled network element rates, universal service subsidies, pole attachment rates, interconnection and collocation rates, and the rest – are going to become obsolete within the foreseeable future. Indeed, even as competition continues to develop, these programs will remain critically important. *See, e.g.*, GSA at 5. Because both the Commission and state regulators depend on the Commission's accounting and reporting rules to implement these programs, any timetable for the repeal of these rules is premature. *See* NARUC Comments at 4 (February 22, 2001). The biennial review process itself is a fully

sufficient mechanism at this time to monitor developments and to assess the continuing need for these rules.[1]

The comments also confirm that the ILECs' claims concerning the "burdens" of the accounting and reporting requirements are greatly exaggerated. The ILECs already maintain accounting information far more detailed than what is required by the Commission's rules, and will continue to do so even if the Commission were to repeal the rules. The ILECs frankly acknowledge this. USTA at 2 ("incumbent LECs will continue to keep accounts and will continue to maintain data," and "incumbent LECs would not be able to immediately scrap current accounting systems"); Verizon at 6 ("carriers are not likely to eliminate their current accounting systems immediately if the Part 32 rules were eliminated"); *see also* Comments of Qwest at 13 n.27 (December 21, 2000) ("Qwest uses more detailed information than is available from Class A accounting to satisfy the Part 64 rules"). Indeed, the ILECs even concede that regulators will still need this accounting information, which the ILECs promise to provide upon request. *See* USTA at 2-3; Verizon at 6. The current system of uniform, easily accessible accounting and reporting information, however, is infinitely superior to the ILECs' proposed alternative of ad hoc requests for non-uniform, internal accounting information.[2]

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[1] Qwest repeats its erroneous claim that Section 11 establishes a presumption that regulations are not "necessary" and that the burdens is on the proponents of a rule to defeat the presumption. *See* Qwest at 2-3 & n.10. As AT&T has previously shown, the statute in fact establishes that regulations are presumptively valid, and the burden is on the proponents of repeal to make an affirmative demonstration that "meaningful economic competition" has rendered such regulations unnecessary. AT&T Reply Comments at 4-5 & n.3 (January 30, 2001).

[2] BellSouth asserts (at 5 n.10) that, in the unlikely event that the Supreme Court rules that the Commission must use historical costs for pricing unbundled network elements (and perhaps universal service subsidies), the Commission could still repeal the accounting and reporting rules and rely on special studies "in a format requested by the Commission and state commissions."

Furthermore, the ILECs have not shown that the accounting and reporting rules hinder their ability to respond to competition. If anything, the "accounting and reporting safeguards have been instrumental in bringing competition into the local market, and elimination of these requirements at this time could jeopardize the gains that have been made and could compromise future competition." NARUC Comments at 5 (February 22, 2001). As many commenters note, the ILECs (unlike their competitors) are dominant carriers that have market power. As Sprint observes (at 2), "[t]he absence of meaningful residential competition, or significant business competition in most markets would appear to foreclose any opportunity to generally apply deregulation of accounting requirements in the near term." *See also* Wisconsin at 6 ("except for MTS, no services provided by Wisconsin ILECs have been determined to be subject to effective competition"); OCC/NASUCA at 3 ("OCC and NASUCA are not aware of any evidence that shows that, for residential customers at least, meaningful economic competition exists anywhere in the United States"); GSA at 5. And as OCC and NASUCA point out (at 3), "[w]ithout a doubt, the ILECs maintain market power even in those states where competition has taken hold." Because of the ILECs' asymmetrically dominant position in the market, asymmetric accounting regulation is appropriate. *See* Wisconsin at 7 ("the Wisconsin Commission suggests that asymmetric regulation in a transitional industry is reasonable"); Sprint at 3 ("so long as an ILEC enjoys dominant carrier status, it must be subject to more regulation than the non-dominant carriers," and Commission should be especially cautious "where the ILEC actually has an impact over many of its competitors' ability to compete, by virtue of the fact that the competitor depends on the ILEC for facilities and service"); GSA at 6.

This would be precisely the sort of ad hoc request for information that would be burdensome and inefficient for all parties.

Similarly, the ILECs' proposal that pricing flexibility should act as a trigger for the complete repeal of the accounting and reporting rules is fundamentally misguided. USTA at 10-11; BellSouth at 3-5. First, the proposal simply ignores the fact that, as shown above, state and federal regulators use the Commission's accounting and reporting requirements for a wide variety of purposes, such as UNE and pole attachment pricing, that do not become irrelevant when an ILEC is awarded pricing flexibility. But the ILECs' proposal is misguided even as it relates to interstate access charges. As the Commission has expressly recognized, ILECs still have market power over the services for which they have received pricing flexibility, and those services are still subject to Sections 201 and 202 of the Communications Act. Thus, in the absence of formal rate regulation, the ILECs' market power makes the accounting rules even more important, because as WorldCom observes (at 2), "the Part 32 USOA restrains an incumbent LEC's ability to charge monopoly prices because it provides ratepayers with information that can be used to pursue a complaint against unjust and unreasonable rates." Pricing flexibility would thus be a wholly inappropriate trigger for complete elimination of the accounting and reporting rules.[3]

Finally, the Commission should not carve out additional exceptions from the accounting rules for smaller LECs. *See* Sprint at 3-4. In the Phase 2 proceedings, the commenters amply demonstrated that such exceptions are unwarranted. *See, e.g.*, AT&T Comments at 9-10 (December 21, 2000); AT&T Reply Comments at 15-16 (January 30, 2001). And Wisconsin and NARUC here agree that "further reductions in [the requirements for mid-

[3] Indeed, as AT&T and WorldCom have shown, the pricing flexibility regime has created a need for new accounting and reporting information. *See* Comments of WorldCom at 6-7 (December 21, 2000); Reply Comments of AT&T at 14 (January 30, 2001).

size companies] are only warranted when these smaller companies achieve effective competition." Wisconsin at 9; *see also* NARUC Comments at 6 (February 22, 2001).

In sum, the accounting and reporting rules are still vitally important, and any consideration of elimination of those rules is extraordinarily premature. State and federal regulators make extensive use of these data. As AT&T showed previously, if the FCC were to eliminate its nationally uniform rules, either piecemeal or all at once, the states would have no choice but to readopt those rules at the state level, but with an substantial loss of efficiency and utility. *See, e.g.*, Comments of Wisconsin at 4 (December 21, 2000). The establishment of a nationally uniform system is far more efficient than fifty different state systems, and such rules fulfill a uniquely federal function that cannot duplicated by the states. *See* GSA at 4 ("[s]ince only the Commission is in a position to require uniformity of accounting and reporting throughout the nation, the Commission must consider both Federal and state regulatory needs in assessing changes to its rules"); NARUC Comments at 2 (February 22, 2001). Indeed, repeal of the Commission rules, followed by the inevitable readoption of the rules by the various states, may actually be costlier for the LECs because the states' requirements will not be uniform. Moreover, as AT&T noted previously (at 5), neither the FCC nor the states use these requirements as an instrument of direct regulatory control over the LECs, but merely to monitor whether the LECs are adhering to their direct regulatory requirements, or to determine whether direct regulatory requirements need to be changed. Because of the continuing need for these requirements, the Commission should not consider adopting triggers or timetables for the elimination of these rules.

CONCLUSION

For the foregoing reasons, the Commission should not adopt mechanisms for the removal of accounting and reporting requirements at this time.

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March 14, 2001

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of March, 2001, I caused true and correct copies of the forgoing Reply Comments of AT&T Corp. to be served on all parties by mailing, postage prepaid to their addresses listed on the attached service list.

Dated: March 14, 2001
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